IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

Crl.MC.No. 1192 of 2007()

CRIME NO. 536/06 OF ARANMULA POLICE STATION

PETITIONER: ACCUSED NO. 1 & 2

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1. ANOOP, S/O.KUMARAN, MANAPPURATHUVEETIL, KARAM VELI MURI, MALLAPPUZHASSERI VILLAGE, KOZHENCHERY TALUK.

2. BABU, S/O.JANARDHANAN, MADATHIL VEEDU, PUNNAKKADU P.O., MALLAPPUZHASSERI VILLAGE, KOZHENCHERY TALUK.

BY ADV. SRI.V.SETHUNATH

RESPONDENTS: COMPLAINANT AND STATE

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1. S.I. OF POLICE, ARANMULA POLICE STATION.

2. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 1192 OF 2007

Dated this the 28th day of May, 2007

ORDER

The petitioners are accused who face allegations of having committed the offence punishable under the Kerala Abkari Act. The allegation is that on receipt of prior information that the petitioners are involved in illicit transportation of liquor in a motorcycle and sale thereof, they were intercepted by the officials. They allegedly abandoned the vehicle and took to their heels. They could not be arrested. The earliest document viz., seizure mahazar and the First Information Statement indicate their complicity. Investigation is now complete. Final report has been filed. The petitioners moved anticipatory bail. Their applications were dismissed; but subject to the direction that they must surrender before the officer. They have not done so. They are absconding.

2. The short submission of the learned counsel for the petitioners is that the allegations against the petitioners are false. The motorcycle does not belong to them. In these circumstances, the allegations must be reckoned as false and vexatious and the proceedings may be quashed, it is prayed.

3. The application is opposed. It is submitted that cogent materials have been collected against the petitioners. I do not want to hazard any detailed discussion or render any opinion on the acceptability of the allegations or the credibility of the data collected. A court called upon to invoke its powers under Sec.482 of the Cr.P.C. must alertly be cognizant of the nature, quality and contours of its extraordinary inherent jurisdiction. Truth or falsity of the allegations cannot normally be gone into and decided in such proceedings. I shall only mention that no sufficient circumstances have been shown to exist which would justify the invocation of the extraordinary inherent jurisdiction. This is an eminently fit case where the petitioners must take part in the trial, establish their contentions and justify their claim for exoneration.

4. This Crl.M.C. is, in these circumstances, dismissed. I may hasten to observe that I have not intended to express any

opinion on merits about the acceptability of the allegations. I have only chosen to hold that the powers under Sec.482 of the Cr.P.C. do not deserve to be invoked at this stage and with the present materials.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge